

The Official Website of the Department of Revenue (DOR)

Department of Revenue

 **Mass.gov**

Mass.Gov Home State Agencies State Online Services

- DOR Home
- For Individuals and Families
- For Businesses
- For Local Officials
- For Tax Professionals

Home > Businesses > Help & Resources > Legal Library > Letter Rulings > Letter Rulings - By Year(s) > 1984 and Prior > 1979 Rulings >

Letter Ruling 79-12: Rubbish Containers and Compaction Units

SEARCH

Select an area to search

Search

June 7, 1979

You request a ruling with respect to the property tax status of rubbish containers and compaction units used by [a trucking company (T/P)] in its rubbish disposal business under Massachusetts General Laws Chapter 59, Section 5 Clause 16. This section exempts from taxation "all property of a business corporation other than. . .machinery used in the conduct of the business, which term. . . shall not be deemed to include stock in trade".

T/P is a Massachusetts corporation in the business of collecting, hauling and disposing of rubbish. It rents and delivers commercial sized rubbish containers to its customers. Employees of T/P's customers deposit rubbish in the rented containers and T/P empties the containers and disposes of the rubbish. T/P invoice lists separately a fee for disposing the rubbish and a service fee, that is, a fee for renting the containers supplied by T/P.

The Supreme Judicial Court, construing a sales tax statute in *Browning Ferris Industries v. State Tax Commission*, found that where the taxpayer separately stated its charge for the rental of rubbish containers, that rental constituted a sale at retail of tangible personal property. The Court noted however, that if there were only one charge for the container, transportation and dumping with no separation thereof, there would be no tax if the supply of containers were an "inconsequential sales element of an essentially personal service transaction". Massachusetts General Laws Chapter 64H, Section 1(13).

Applied to the property tax, that case indicates that since the containers are rented, they are 'stock in trade' as that term is used in Massachusetts General Laws Chapter 59, Section 5 Clause 16. In *City of Boston v. MacGray*, 1977 A.S. 206, 209, a case interpreting the relevant section of the law, the Supreme Judicial Court stated that the words 'stock in trade' refer to the "taxpayer's inventory of machines available for sale or lease".

Based on the above, it is ruled that:

- 1) rubbish containers without moving parts which are not machinery are exempt from local taxation under Chapter 59;
- 2) rubbish containers and compaction units which are machinery and are rented or leased by

T/P to its customers for a separately stated charge, are stock in trade and thus are exempt from local taxation under Chapter 59;

3) rubbish containers and compaction units which are machinery and are held by T/P for lease or rental, are T/P stock in trade and thus exempt from local taxation under Chapter 59.

Very truly yours,

/s/Joyce L. Hampers

Joyce L. Hampers
Commissioner of Revenue

cc: Town of

LJH/RSF/rmm

LR 79-12